IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 4334 of 2006()

CRA.53/2001 of ADDL. SESSIONS COURT (ADHOC), KALPETTA
CC.689/1997 of JUDL.MAGISTRATE OF FIRST CLASS-I, SULTHANBATHERY

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REVN. PETITIONER: APPELLANT/ACCUSED

PRASAD @ SIVAPRASAD
S/O. RAGHAVAN, AGED 22 YEARS
PANNIKKARA HOUSE, KALOOR
NOOLPUZAHA, SULTHAN BATHERY TALUK
WYANAD DIST.

BY ADV. SRI.N.J.ANTONY

RESPONDENTS: COMPLAINANT/STATE:

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1. SUB INSPECTOR OF POLICE, SULTHAN BATHERY
   WYNAD DISTRICT.

2. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH
BY ADV. SMT.T.J.SEEMA

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 05/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T.SANKARAN, J

Crl.R.P.No.4334 of 2006

Dated this the 5th day of December, 2006

ORDER

This revision is filed by the accused in C.C.No.689 of 1997 on the file of the Court of Judicial Magistrate of First Class I, Sulthan Bathery. The offences alleged against the petitioner were under Sections 324 and 326 of the Indian Penal Code. The trial court found the petitioner guilty for the offences alleged against him. The petitioner was sentenced to undergo rigorous imprisonment for six months under Section 324 IPC and rigorous imprisonment for one year under Section 326 IPC. It was held that sentence shall run concurrently. The petitioner challenged the conviction and sentence in Crl.A. 53/2001. The appellate court dismissed the appeal confirming the conviction and sentence.

2. The injured persons were examined as PW's 1 & 2 before the trial court. They are relatives of the accused. An application for compounding is filed as Crl.M.A.No. 11542/2006 wherein it is stated that the PWs 1 and 2 and the revision petitioner/accused are relatives and neighbours. It is also stated

that at the instance of other relatives, they have amicably settled the disputes. The prosecution case shows that the dispute arose in respect of draining of water through a 'chal'. The allegation is that on 21.4.1997, at 6.30 AM, the accused beat PWs 1 and 2 with MO1 stick. PW2 sustained fracture on her wrist. From the evidence on record, it is clear that MO1 stick is not a weapon coming within the scope and ambit of Section 326 of the Indian Penal Code. It cannot be said that MO1 stick, if used as a weapon for the offence, is likely to cause death. I am of the view that on the evidence available in the case, only an offence under Section 325 is made out.

3. Now the matter is settled between the parties. The offences under Sections 324 and 325 are compoundable with the permission of the court. In the nature of the dispute involved and since the parties are close relatives and neighbours, I am of the view that it is only proper to grant permission to the parties to compound the offences. Accordingly, leave is granted to compound the offences.

4. Since the injured persons, namely, PWs 1 & 2 and the accused are allowed to compound the offences, it is only just and proper to set aside the conviction and sentence imposed on the petitioner.

Accordingly, this Crl.R.P. is allowed, the conviction and sentence as imposed by the courts below are set aside and the petitioner is acquitted under Section 320(8) of the Code of Criminal Procedure.

K.T.SANKARAN,
JUDGE

csl

K.T.SANKARAN, J

Crl.M.A. No. 11542 of 2006
in
Crl. R.P. No.4334 of 2006

Dated this the 5th day of December, 2006

ORDER

It is stated that the petitioner/accused and PW's 1 & 2 who are the injured persons have settled disputes between them with intervention of relatives. The accused and the injured are neighbors and relatives. The petitioner was convicted for the offences under Sections 324 and 326 I.P.C. From the evidence on record, it is clear that Section 326 is not attracted in the facts and circumstances of the case and only an offence under Section 325 would be attracted. Since the offence under Sections 324 and 325 are compoundable with permission, I am inclined to allow the application for compounding in the facts and circumstances of the case, particularly when the parties are neighbours and relatives.

Accordingly, the application is allowed.

K.T.SANKARAN,
JUDGE

csl